THE HOMESTEAD LAW AGITATION.

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THE AUTHOR.

THE HOMESTEAD LAW AGITATION.

INTRODUCTION. THE HOMESTEAD BILL OF 1862. THE AGITATION OF SIXTEN YEARS. IMPORTANCE OF THE AGITATION.

On the 20th of May 1862, the President of the United States signed a bill entitled, "An act to secure Homesteads to Actual settlers on the Public Domain". This act[1] proposed to throw open such of the public lands as were subject to private entry, to settlers free of all cost, save a comparatively insignificant fee for registration and transfer. The privileges of the act were to extend to any actual settler who was the head of a family, or twenty one years of age, and a citizen of the United States, or if a foreigner who should have filed a declaration of intension of citizenship, and who had never borne arms against the United States government, or given aid or comfort to its enemies[2]. By a subsequent clause of the bill, the privileges of the act were also extended to any person who had served fourteen days in the army or navy of the United States[2].

The one important condition prescribed for the enjoyment of these privileges, was the actual occupation and settlement of the land by the would be owner, for the recognition of which by the government, a five

[1] For the text of the Homestead Law see the *Congressimal Globe*, 37th Congress, 2nd Session, Part 4. Appendix p. 352.

[2] The bill was passed when the Civil war was at its height. In the earlier homestead bills this item does not appear.

years actual residence was required. The amount of land which might be so taken by any one person, was limited to one quarter section[1]. It might be less; it could not be more. The land so entered, moreover, could not be made liable for any debts, contracted by the holder prior to the day of issue of the final patent. These are the main features of the homestead act of 1862[2].

This was not the first time that such a measure had been presented to Congress. The underlying principle involved, that of a free gift of public land to actual settlers, had been familiarly known as "the Homestead Law" or "the Homestead Bill", and under various titles and with every possible variety of detail had been before one or both Houses of Congress since 1846. Moreover the efforts of the advocates of the homestead measure to force it upon Congress had led to a long series of debates, marked with ever increasing vigor and feeling, and extending to the secession of the southern states in 1861. This continued agitation in Congress, with its echoes in the contemporary press and from the contemporary "Stump", is not without serious importance in its bearing upon the wider circle of political disturbances that during these eventful years distracted the minds of the American people and prepared the way for rebellion. It is the purpose of the writer to review this agitation with special reference to its political bearing, and to consider the

[1] The words "one quarter section" had been used in the later homestead bills to avoid confusion in the Land Office. In theory the quarter section was equal to 160 acres. But topographical formation not unfrequently interfered with the regularity of the surveyor's work.

[2] There were also other minor conditions designed to protect the government from fraud and so the better to secure the purposes of the bill. The bill also prescribed for the disposition of the land in the event of the death of the occupant prior to the issue of the final patent. The bill has also been the subject of various amendments since 1862.

part of the Homestead Law in the train of events that led to the ultimate secession of the southern states.

The progress of this agitation presents four strongly marked periods or stages:

First, from 1846 to 1852, in which the friends of the Homestead Law accomplish little more than to bring the principle of the free grant of public land to the actual settler before the attention of Congress. It is a six years struggle for a hearing.

Second, from 1852 to 1855, in which western men, north and south and without regard to party affiliations, push the measure, and succeed in carrying it through the House, both in the 32nd Congress and again in the 33d Congress, in both instances by large majorities.

In both instances, however, the suspicious jealousies of the older states prevent the bill from passing the Senate. It is not yet a party measure. The Whigs generally oppose it, not so much as an anti-Whig measure, but because the Whig party had its strength in the East, while the Democratic party favors the measure just so far as the western states were represented generally by Democrats. The Democratic leaders of the slave states of the coast are generally found in opposition, while the representations of the newer slave states favour the bill[1]. Congress is practically divided by a north and south line that separates the old states from the new.

As this second period of the Agitation closes, the question of the extension of slavery into the hitherto free territories of the United States thrusts itself anew into the deliberations of the National Congress. At once all lesser questions are cast under the shadow of the greater issue and it forthwith became inevitable that the proposal to grant land to the settler free of

[1] For the position of Florida see p. 20 and note 2.

cost should be looked upon by men north, or south of Mason and Dixon's line, solely as it increased the probability of introducing the free laborer of the north with his family — the homestead, or the slave owner with his multitude of "hands", — the plantation, into the territories of the west. Nor did it take an unusually keen eye to discern the real nature of the question at issue. Hence the new turn given to the agitation was the signal for the defection of the slave owners of the south west from the ranks of the homestead men, and led at last to the acceptance of a substitute for the original Homestead Bill which was really a quiet way of shelving a question, which party leaders found to be too dangerous to push farther.

Then followed, *third*, a period of transition. The old and honored name of Whig passed into history. The Free Soilers and Know Nothings soon followed. In the ferment of ideas, the minds of northern men, at first slowly, and then as the old party ties gave way, more rapidly, crystalized about the one simple, tangible idea that the territories must be kept sacred to the tread of freemen; while the south on the other hand, accepted more and more fully the necessity of fighting the battle for slavery in the territories. More than pride, more than the question of abstract right, it was a question of economic necessity.

Then came the shifting of sides, and when the 35th Congress met in the winter of 1857 and 58, two great parties that divided the country by an east and west line, stood face to face with the one sole issue between them, and the future of the American people in the balance.

Then it was that the Homestead Agitation leaped into new significance. In the 34th Congress, it had been almost lost sight of. Now it was pushed forward by the great Republican leaders with less and less attempt at hedging, or covering its real nature, or concealing their own ultimate purpose. The south saw

the danger, and fought the measure with all the intensity of the hatred and suspicion which the conflict of thirty years had developed. This is the *fourth* and last stage of the agitation, when the Homestead Bill became distinctively a measure of the Republican party, when it formed a part of the arsenal of aggressive Republicanism and which, if carried into effect, would have decided the question of the existence of slavery in the territories within fifteen years.

The history of Missouri had already demonstrated the utter inability of the plantation to keep pace with the homestead. The adoption of the Homestead Law, the organization of numerous Emigrant aid societies, which were already springing up in the east, would have vastly increased the disparity between the two institutions in their struggle for the territories. The Homestead Law was thus to be the sword arm with which the Republican party were to smite slavery at last.

Nor were the south altogether without reason in their suspicion that the triumph of their foes would not stop here. With the new states of the future all free, with slavery shut off from all extension by the dense masses of freemen shutting it in on the north and the west, forbidden to acquire new slave territory in the south as the settled policy of the country, slavery must die from lack of room, oven if the increased preponderance of the free states did not lead to an open and direct amendment of the Constitution adverse to slavery.

The southern leaders were awake to the full significance of the crisis, even more than the north; and hence, when the balances turned against them in the great political contest of 1860, dispairing of maintaining their position through the regular and peaceable means of legislation, they drew the sword and sought to assert the right of the plantation, by the savage sylogism of war. Thus ended the fourth period of the

Homestead Law Agitation. The slavery question was not to be decided by the contest of institutions — the Homestead against the plantation, but by the more summary method of "blood and iron".

With the act of secession, the Homestead Agitation lost its political significance, and became once more a question of mere economic expediency. The act of secession was a virtual abandonment on the part of the south of the ground for which they had been contending since 1846. It left the free states and the Homestead in possession of the disputed territory. Henceforth it was only a question of time, when the party in possession of the government, at the first occupied with the marshalling of armies and the equipping of fleets, should find opportunity to legislate for the frontier. In this later period, the question belongs to the economic history of the country and hence, does not fall within the scope of the present writing.

CHAPTER I.

THE ORIGIN OF THE HOMESTEAD LAW. THE IDEA NOT A NOVELTY. THE SIX YEARS STRUGGLE FOR A HEARING.

A distinctively homestead bill appeared in Congress, first in the spring of 1846. On March 9th of that year, Mr Felix G. McConnell, a representative from Alabama, proposed in the House, "A Bill to grant to the Head of a Family, Man, Maid or Widow, a Homestead not exceeding 160 acres of Land"[1] Inspite of the undoubted earnestness of the author, the bill seems to have been regarded as a jest by the other members of the House. At a later day when the origin of the law was in question, McConnell was described as "an unfortunate son of genius, who was in the habit on all occasions, when he arose to address the speaker of the House of

[1] Congr. G. vol. 15, p. 473.

Representatives, of suggesting his proposition for a homestead for every man, matron and maid in the United States, who was the head of a family"[1]. It does not seem therefore that the personal influence of Mc Connell was such as to give dignity to the homestead measure, or to elicit a respectful hearing from his fellow congressmen.

The homestead principle, however, did not lack friends. On March 29th, Andrew Johnson of Tennessee, who had taken his seat in the House for the first time in the 29th Congress, asked leave to introduce "A Bill to authorize Every Poor Man in the United States who is the Head of a family, to enter 160 acres of the Public Domain, without Money and without Price"[2]. On March 26th McConnell again attempted to introduce his "Man, Maid or Widow" bill[3]. On the 27th Mr. Johnson's Bill was read twice and committed[4]. At various times and in various forms other voices were also raised for the homestead principle during this session[5].

The 29th Congress, however, was evidently not ready to consider the matter seriously. It seems to have been specially indifferent to the claims of the pioneer public. A measure so wise and conservative as a graduation bill, which proposed to grade the price of lands that had been in the market for ten years and more, with some regard to their actual value, was laid on the table in the House by a vote of 104 to

[1] *Cong. Globe*, 35th Cong. 1 Session, Part III, p. 2425. Compare also with Johnson's reply to Clay and defense of McConnell. Ibd. p. 3043. Johnson makes no mention of the fact that McConnell's Bill had preceded his own by three days.

[2] *Cong. Globe* vol. 15, p. 492.

[3] Ibd. p. 558.

[4] Ibd. p. 563.

[5] Ibd. pp. 562. 1071. 1077 *et al.*

79[1]. Other homestead bills were also presented in the 30th and 31st Congresses but without other result than to draw attention to the indifference of the politicians.

Although the idea of giving public lands to settlers seems thus at first to have met with little favor from the custodians of the commonwealth, it was by no means a novelty in the world. The colonization of the original thirtheen colonies had been made possible only by the adoption of a liberal policy of granting land to colonists on the part of the English Crown. From the grant made in 1497 to John Cabot by Henry VII, to the patent given in 1681, to William Penn by James II, beyond the immediate purpose of rewarding favorites, paramount to all else was the ultimate purpose of developing the wealth of these distant crown lands by the planting of thrifty colonies. The failure to fulfil these conditions was cause sufficient to declare the patent forfeited. Spain and France had also followed the same general policy and had dealt out

[1] *Cong. Globe*, vol. 16, p. 1196. It is interesting to note here that twelve years later the whole attitude of the Democratic party toward the disposition of the public lands had changed materially. The same epithets applied by the Democrats of 1858 to the Republican advocats of the Homestead Law, are applied by the Whigs in 1846 to the Democratic advocats of the Graduation Bill. "The opponents of this measure, perhaps for the want of better argument, have undertaken to disparage its friends as "radicals", "agrarians", and "destructives", indeed as almost every thing unworthy. But with what justice have they undertaken this discourteous task? Is it because a majority of the friends of this measure are Democrats?" . . . . . "Is it because we are in favour of a system of cheap lands, as a certain and efficient means of adding to the national wealth, — of improving the revenue, of increasing the number of manly independent freeholders and thus of strengthening the guarentees of 'equal rights' and self government". From speech of McBerned of Illinois, July 10, 1846. *Cong. G.* vol. 17, Ap. p. 34. Compare also the speech of A. H. Stephens, then a southern Whig. Cong. Globe, vol. 16, p. 1104, also vol. 17, p. 37, and vol. 16, p. 110, *et al.*

empires to their favorites with lavish hand and upon the same general conditions [1]. In the early part of the present century governments as widely separated as the Repnblic of Columbia and the Persian monarchy had opened the hand to the immigrant [2]. The individual states of the American Union had also adopted a liberal policy in the treatment of the immigrant and the poorer land owners. In 1854, in seventeen of the thirty one states that at that time composed the American Union, so called homestead laws were in force [3].

The federal government, from the greater complexity of its organization and the wider diversity of its interests, more conservative than the state governments, had in its general land policy, kept the immediate interests of the public treasury before those

[1] For the history of the several attempts made to colonize America, see Bancroft, vols. I and II; also Hildreth, vol. I. For the texts of the Charters of the several American Colonies, see *Documents Illustrative of American History*, pp. 1—148. For an abstract of Colonial grants, *Cong. Globe*, 33d Congress, 1st Session Ap. p. 183.

[2] In 1823 the Republic of Columbia decreed that foreigners emigrating to Columbia should receive gratuitous donations of land, in parcels of two hundred fangas (about 400 acres) to each family. Under date of July 8, 1823, the Persian Ambassador in London issued the following proclamation: "Mirza Mahomed Saul, Ambassador to England, in the name and by the authority of Abbas Mirza, king of Persia, offers to those who shall emigrate to Persia, gratuitous grants of land, good for the production of wheat, barley, rice, cotton and fruits, free from taxes and contributions of any kind, and with free enjoyment of their religion, the king's object being to improve his country". *Cong. Globe* 33d Congress, 1st Session, Appendix p. 1096.

[3] These homestead laws of the States proposed not so much to give lands to settlers, as to exempt those already settled from the burden of taxation. The value of property thus exempted by state law differed in the several states from a lot of land with dwellings, not to exceed 500 dollars in value in Maine, to 5000 dollars in California. Of course the object of such laws, especially in the new states, was to invite settlement.

Cong. Globe, 33d Congress, 1st Session p. 1096.

of the immigrant. Yet there were not lacking many special cases in which land had been granted to the settler upon the easy terms of occupation. In his speech in the Senate of April 11, 1860, Andrew Johnson declared that there had been fourty four precedents running through the administrations of every President from Washington to Buchannan, in which the homestead principle had been recognized[1]. In some of these the government had been exceedingly lavish. In 1791 Congress had given "four hundred acres of land to each of those persons who in the year 1783 were heads of families at Vincennes". The Oregon Bill of 1850, had offered to every unmarried man settling in the Oregon country 320 acres of public land, and to married men 640 acres. Yet at best these grants were isolated and local, and, compared with the millions of acres[2] that had been given to railroads and, in the form of land warrants, to men who had served in the army or navy, little had yet been done for the settlers as a class. Nevertheless, it was something that in so many instances the homestead principle, a free grant to actual settlers, had been recognized, and, so for as precedent went, its constitutionality established.

There had not been wanting those high in authority to favor a broader policy on the part of the government. In his message of 1832 President Jackson had said: "It cannot be doubted that the speedy settlement of these lands constitute the true interest of

[1] For speech of Johnson, as well as the text of the Vincennes act and the Oregon Bill, see *Cong. G.* 36th Congress, 1st Session, Part II, pp. 1650 and 1651. A series of such acts are also cited by Dawson of Penna, in his remarks of Feb. 21, 1854. See *Cong. G.* 33d Cong., 1st Sess., Part I, p. 462.

[2] Up to Feb. 1854 Congress had granted for the construction of railroads, canals, &c. 18,553,100 acres; and to individuals for military services 24,841,979 acres. *Cong. G.* 33d Cong., 1st Sess., Part I, p. 462.

the Republic. The wealth and strength of a country are its population; and the best part of a population are the cultivators of the soil". . . . . "It seems to me to be our true policy, that the public lands shall cease, as soon as practicable, to be a source of revenue and that they be sold to settlers in limited parcels, at a price barely sufficient to reimburse to the United States the expense of the present system and the cost arising under our Indian compacts"[1]. While Jackson here had no idea of recommending the giving away of the public lands "without money and without price", he did recommend that the lands be thrown open to actual settlers with the least possible expense on the part of the settlers, and without any profit from the sale on the part of the government.

Far more in sympathy with the immediate purpose of the friends of the homestead measure, was a resolution offered by the great Massachusets Whig, Daniel Webster, a short time before he resigned his seat in the Senate for a place in the cabinet of President Fillmore. In this resolution, Webster declared that a provision ought to be made by law whereby every male citizen of the United States, and every male person, who had declared his intention of citizenship, should be entitled to one quarter section of the public lands "for the purpose of residence and cultivation and that when such citizen shall have resided on the same land for three years and cultivated the same", he shall be entitled to a patent from the government, giving him a full title[2]. To be sure this res-

[1] *Statesman's Manual* vol II, pp. 883 and 884. This was a favorite quotation of the friends of the Homestead Law. It is to be noticed that the quotation as used by them stopped with the word "*revenue*". It is surprising that the opponents of the bill did not make capital of this fact. See Cong. Globe, 33 Cong., 1st Sess., Ap. p. 179.

[2] Resolution offered by Webster in Senate, Jan. 22d 1850. For text of resolution see Cong. Globe, 31st Congr., 2d Session, p. 36.

olution was only designed as an expression of opinion; and at the time Congress gave it little attention, commensurate with the dignity and influence of its author, and yet, coming from Daniel Webster, it was an utterence of grave import. It could be placed side by side with enactments approved by Washington and Jefferson, to show that the homestead principle had the support of the broadest philanthropy and the wisest statesmanship of the nation. It could be yoked with the express declaration of Jackson, to prove that the idea of using the public domain to favor the settler, had long since been familiar to the public mind and now came before Congress sustained by the highest authorities in either political party.

The measure then as pressed upon the attention of Congress by Johnson and others is not a novelty. And yet up to the first session of the 32nd Congress, it seems to have been regarded by statesmen, north and south, with few exceptions, as unworthy of the sober consideration of Congress. To them it was at best, only the dream of an impracticable philanthropy, or the trick of an ambitious demagogue [1]. So long as Congress remained in this mood, it was useless for Johnson to quote the authority of Washington or Jackson, or to point to the precedents established by Congress itself. His persistence, his very display of authority, made his demagogism the more flagrant and reprehensible. It needed more than the authority of the

[1] Johnson had so identified himself with the Homestead Law in the days of its unpopularity, that he was generally charged with its paternity. At a later day, when it became the object of virulent partisan strife, the southern members tried to make the bill more obnoxious to the south by foisting this questionable honour, as they regarded it, upon men with more pronounced anti-slavey views. In the period that immediately followed the Mexican war, Congressional morals were especially low. A disinterested motive in supporting such a bill as the Homestead Law then was, was incomprehensible to many Congressmen.

honored fathers of the Republic, or even the express declaration of the patron saint of the Democrate party, to force a measure of pure philanthropy upon a group of politicians, wholly absorbed by such exciting topics as the Wilmot Proviso, or the Texan boundary, or the admission of California[1]. The men of the older states took no interest in a matter which did not concern them; and the men of the new states as yet felt no special pressure from their constituents. Hence the history of the Homestead Agitation during the six years from 1846 to 1852, is little more than the record of the futile attempts of Johnson, McConnell and a few others to call the attention of Congress to the needs of the frontier, and to lead the government to adopt a consistent and wide reaching land policy.

CHAPTER II.

THE NORTH AND SOUTH LINE.

THE 32ND CONGRESS. THE PROMINENCE OF THE HOMESTEAD LAW. THE HOMESTEAD LAW *VS* THE RIGHTS OF THE OLDER STATES. FAILURE OF THE BILL TO PASS THE SENATE. POLITICAL BEARING OF THE AGITATION IN 1852 AND 1853.

After a long and bitter contest which had lasted from the presentation of the Wilmot Proviso in 1846[2],

[1] The all absorbing question of the rights of slavery in the territory acquired by the Mexican war, naturally shut out all other questions of less pressing importance. See the detailed account of these discussions, that followed the introduction of the Wilmot Proviso, as given by von Holst in his *Constitutional History of the United States*, volume on *The Annexation of Texas* and *The Compromise of 1850*, Chaps. XI to XVI inclusive, *American Edition*.

[2] On the 8th of August 1846, President Polk addressed a message to both Houses of Congress in which he asked for the sum of two million dollars to be used in indemnifying Mexico, for the relinquishment of territory to the United States in the event of peace. On the same day McKay of North Carolina introduced a bill in

the Compromise measures of 1850 [1] had once more given peace to the country. No compromise, however, that had the acceptance of the Fugitive Slave Law by the people of the north as its basis, could long endure. The thunder of words died away. The threats of secession were heard no longer. There was quiet. But it was not the quiet that follows the spent tempest. It was only the lull, the sudden sinking of the barometer, the stiffling atmosphere, the unstable equilibrium of

the House in compliance with this expressed wish of the President. Wilmot of Pennsylvania moved as a proviso to McKay's bill, that slavery should be forever prohibited in all the territories to be acquired from Mexico. This was the famous "Wilmot Proviso" which kicked up such a storm in the deliberations which attended the close of the Mexican war, and which bore no small part in the series of agitations which led finally to the attempt to dissolve the Union.

[1] The tempest let loose by the "Wilmot Proviso" of 1846, was staid at last by the Compromise measures of 1850. These measures were:

First: The payment to Texas of an indemnity for yielding her claims to lands in New Mexico.

Second: The organization of New Mexico as a territory with the question of slavery left to be settled when the territory sought admission as a state to the Union. The question to be settled by its own constitution.

Third: The admission of California to the Union as a free state, under the constitution already adopted by its people.

Fourth: The Fugitive Slave Law, which was the real key stone of the arch, and marks the Compromise as a victory for the south.

Fifth: The abolition of the slave trade in the District of Columbia.

These several measures had all been included in the original compromise measure, Clays famous "Omnibus Bill". But the "Omnibus Bill" itself had come back from the House, with hardly enough of it left to warrant its friends in holding a formal funeral service. Yet the essential features of the bill were not abandoned and, under a new arrangement, as separate bills, they were allowed one by one to pass both houses of Congress.

Von Holst, *Constitutional Hist. United S.* vol. on 1846—1850, pp. 286, 486, 522, 525, 543—4, 545—561.

pent up forces, that must seek relief at last in a still wilder outburst of storm. And yet brief as was this truce, it was the opportunity for which Johnson and the friends of the homestead measure sought. It gave them at last a chance to be heard.

Other forces friendly to the Homestead Law were also operating outside of Congress. The Mexican war had done more than simply to stimulate the strife between north and south. The accession of vast territories, the discovery of gold in California, had given an unprecidented stimulus to emigration from the old states into the west. There were few high spirited young men in the east, who had their fortunes to make, who in the years from 1846 to 1852, had not at some time turned their thoughts westward; while many an older man thought it not too late to mend his fortunes in this new Eldorado. From all the old states and even from the states bordering on the wilderness an ever increasing stream of tent covered wagons, horses and cattle, men, women and children stretched out over the western prairies. A comparatively small proportion of these emigrants penetrated into California or even reached the Rocky mountains. The wide plains that held the gates of those distant gold mines, had terrors other than the scalping knife and the war whoop. The wrecked wagon trains, the bleaching bones by the lonely prairie trail, the tales of death by starvation, by thirst, by exhaustion, were enough to deter the most hardy from attempting the long and hazardous journey. Accordingly when the first flush of the "gold fever" had passed away, the rich fields nearer home became more attractive, and the new states and territories[1] along the Mississippi valley began to receive the greater part of the tide of immigration.

[1] In the state of Minnesota, to day, to be a "forty-niner", is to hold a high place of honor among the patriarchal pioniers of the state.

The first and most natural effect of this increase of immigration was greatly to increase the demand for public lands[1]. Millions of acres had from time to time been surveyed by the government and thrown upon the market. But in most of the older states these purchasable lands had been long since culled by speculators, and what remained was inferior to the still unsurveyed lands which the government had reserved. The temptation therefore to the immigrant was very great, to go ahead of the government surveyor and by "squattor right", take possession of good land that still remained unoccupied, wherever he could find it. Here he built his log house, or laid up his sod hut and waited for the approach of civilization either to eject him, or to justify him in his claim.

To the speculator, who had friends and money, a far more direct and less painful road to wealth lay open. Under the gracious guise of representing some railroad or internal improvement company, he infested the lobbies of Congress and unblushingly pushed for-

[1] At the beginning of the 1st Session of the 31st Congress, sixty five bills were introduced which proposed "to divide the public lands indiscriminately among canals, corporations, lunatic asylums, schools and so forth". Speech of Andrew Johnson, Jan. 23d 1851. *Cong. Globe*, 31st Congr. 2nd Session, (vol 23), p. 312.

In the first three months of the 1st session of the 32nd Congress, that is up to the 1st of March 1852, the Senate alone sent to the committee on Public Lands, bills which proposed to give away for the purpose of constructing railroads and for other objects, public lands amounting to 27,747,111 acres. *Congr. Globe*, 1est Session, 32nd Congr., Appendix p. 428. It is also significant that between the 30th of June 1851, and the 30th of June 1853, the public domain was reduced by 254,701,881 acres. Compare the tables given by the Commissioner of the General Land Office in his reports of the years 1851 and 1853 respectively. *Congr. Globe* 32nd Congr., 1st Sess., Appendix p. 379, and 33d Congr., 1st Sess. Appendix p. 919. This reduction of course was due to all causes, actual sales as well as grants. It illustrates the enormous demand made upon the public domain during these years.

ward his schemes of land spoliation. Log rolling abounded. A tide of corruption threatened to invade Congress [1] and disturb the progress of more meritorious legislation.

It would be strange indeed, if in the midst of this clamor for spoil, no voice should be raised for the immigrant [2] by his lonely lodge in the wilderness. Too poor to pay money down for the few pittiable acres, that he with little other assistance than his own strong arms had wrested from the wilderness; uncertain at best in his title, and with the possibility ever hanging over him, that Congress might give away the land beneath his feet [3], he yet had rights, and as one

[1] Honest men looked on appalled and asked, Where are these demands made upon the public wealth to stop? In his speech of April 14th 1852, Jenkins of New York denounced the whole scheme of disposing of the public lands as pernicious in its influence, and tending to change the halls of Congress into a market place, "where vote may be bartered for vote" *Congr. Globe*, 32d Congr., 1st Sess. Appendix, p. 428.

[2] Johnson's idea in the original Homestead Bill, was far more comprehensive in its object, than simply to come to the relief of the immigrant. He proposed to confer a boon upon the poor man wherever found, by making the rich western domain easily accessible. There was also a wise and far sighted patriotism mingled with his philanthropy. He proposed to give to the country a hardy class of yeomen upon these farms. "The poor, landless, homeless man, comes here and asks you to give him one hundred and sixty acres of land, that he may live upon it and cultivate it and thereby become an independant man and an efficient citizen". Speech of Jan. 23d 1851, Congr. Globe, 31st Congr. 2d Session, p. 312.

This argument was far too general in its philanthropy, and its beneficent results to the country too remote in their operation, to move the average politician. It was far too indefinite to rouse the people of the western states to action. It was only when the actual crowding of immigrants upon the frontier, and the struggle for the most choice sites, began to create specific and actual distress, that western statesmen seriously gave their attention to the Homestead Law.

[3] Congress had early passed so called Preemption Laws, de-

of the sovereign people, he believed that the land which his toil had enriched, belonged to him, at least as much as to the eastern speculator.

It was natural then that this new emphasis of the needs of the frontier, should bring the Homestead Law into prominence. Since 1846, it had been leading a poor attenuated existence underneath vast piles of other land bills, occasionally giving a gasp for breath in the form of a belated resolution, or an annoying amendment to some more popular bill. Yet the child is there under that heap of rubbish on the secretary's table, and though very weak, it is yet not still-born. There is moreover mighty promise of life in lungs that can gasp so long on such rare air. In the west immigration has become popular, and whatever proposes to favor the immigrant, is sure to appeal powerfully to the sympathy of the people. Wherever states embraced land that was still held by the government[1], that could be used to favour immigration, that is, from Ohio to California, and even from poor, slighted, out of the way Florida[2],

signed to secure those who had made "claims", from interruption until the holder was able to pay the government price and secure a title to the land. Even here however, there seems to have been more or less dissatisfaction and a general sense of insecurity among the early settlers. The large railroad grants were a constant annoyance and cause of distrust. They were a constant threat to the peace of the settler. The principle of the Preemption Law was therefore right. The fault was, as the friends of the Homestead Law claimed, it did not go far enough. It was at best only a half measure. Compare with speech of Hall, of Missouri, in the House April 22, 1852. *Congr. Globe*, 32nd Congr., 1st Session, Appendix p. 436.

[1] These states were known as the "land states", and included Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, Louisiana, Michigan, Arkansas, Florida, Iowa, Wisconsin and California.

[2] So far as its interest in the public domain was concerned, Florida was to all intents a western state. It had been acquired by purchase of a foreign government. Its territory had been wrested from the hand of nature and the savage, by hardy pioners from

the people began to demand of their representatives in Congress[1], that the Homestead Bill receive the at-

the older states. But the position of Florida was isolated. The march of Civilization had passed her by, and with all the disadvantages of a western state, she had nothing of their promise or their hopeful future. It was natural then that she should be slighted in the general distribution of patronage, since she had so little to offer, to induce the immigrant to enter her evergladas or cypress groves. Her people were conscious of this neglect, and were by no means silent under it. In his speech on the Homestead Bill of July 19th 1854, H. R. Mallory, one of the two Florida Senators, declared, that while Florida contained more of the public lands than any other of the thirteen land states, with the single exception of California; more than the combined public lands of Louisiana, Mississippi, Illinois, Indiana and Ohio; that not one acre of these public lands had been bestowd upon Florida for the improvement of the state. In the mean time the Federal Government had "given to Ohio, for roads, canals and rivers 1,243,002 acres; to Indiana, for the same purpose, 1,609,861; to Illinois, for canals, rivers and railroads 2,885,968; and for railroads to Missouri, 2,442,240 acres; to Alabama, 419,528 acres; to Mississippi, 739,130 acres; to Arkansas, 2,189,200 acres". (*Congr. Globe,* 33d Congr., 1st Sess., Appendix p. 1094.) We are not surprised therefore to find Florida standing with the western states in support of the Homestead Bill, during the first period of the Agitation. In the later stages, Florida's interest as a southern slave state outweigh her interests as a land state, and she is to be counted with the opposition.

[1] The legislature of Illinois had declared for the Homestead Law previous to Johnson's speech of Jan. 23, 1851. He speeks of the action of the Illinois legislature as the "first gun". (*Congr. Globe,* 31st Congr., 2nd Sess., p. 313.) April 29, 1852 the resolution of the Iowa legislature was presented to Congress. (Ibd., 32nd Congr., 1st Sess., Appendix p. 499.) The legislatures of Ohio and Wisconsin also declared for the bill in 1852, and their memorials were presented to Congress early in the 2nd Session of the 32nd Congress. (Ibd., 2nd Sess., p. 43.) Indiana did not declare for the bill until later. The southern sympathies of men like English and Niblack were too strong to allow the influence of the state to be won lightly for a measure so bitterly opposed by the south. Both voted for the bill March 12, 1860. English declared at the time that it was only because the legislature of Indiana had declared favorably for the Homestead Law. (Ibd., 36th Congr., 1st Sess., Part II, p. 1115.)

tention that was due to a measure so just and withal so important to the people of the new states.

To pass the Homestead Bill would seem to be the most natural response of Congress to the demand of the frontier. With fourteen hundred million acres of public land at its disposal[1], there could be no object in the careful hoarding of this domain. To place a large part of it within easy reach of the people, would contribute to the rapid upbuilding of the west, and greatly strengthen the government. The restless and vicious proletariat of the east, upon these western farms, would soon be transformed into contented and happy yeomen, — the support of the government in peace and its defense in war. The vast wilderness, now not only idle and worthless, but a

[1] The number of acres of the public domain, that still remained undisposed of on the 30th of June 1851, is thus given by the Commissioners of the General Land Office:

States:	Ohio	302,195.62
	Indiana . . .	1,049,680.91
	Illinois	8,219,628.72
	Missouri . . .	26,685,589.32
	Alabama . . .	15,486,849.23
	Mississippi . .	8,849,165.11
	Louisiana . . .	13,579,384.47
	Michigan	20,011,143.77
	Arkansas . . .	22,303,746.72
	Florida	32,863,518.66
	Iowa	25,661,550.27
	Wisconsin . . .	24,506,294.83
	California . . .	120,447,840.00
Territories:	Minnesota . . .	50,975,931.85
	Oregon	206,349,333.00
	New Mexico . .	127,383,040.00
	Utah	113,589,013.00
	North West . .	370,040,960.00
	Nebraska . . .	87,488,000.00
	Indian	119,789,440.00
	Total	1,400,632,305.48.

Congr. Globe, 32nd Congr., 1st Sess., Appendix p. 379.

source of constant anxiety and an ever increasing burden, once brought under the hand of labor would become a source of wealth to the entire nation[1].

The course of the debate, however, soon revealed the fact, that although the homestead measure had gained much since 1846, its path to the national statute books was by no means to be unobstructed. In the first place it found a formidable opposition in the great railroad interests[2], which with ever increasing importunity had been crowding upon the attention of Congress for years. It was not that the proposed homestead grant would exhaust the public domain and leave nothing for the railroads, but rather that it would prevent the railroads from turning their lands into money. In this the railroad men could claim with some show of truth that they did not stand alone. All other recipients of the public bounty, the thousands of veteran soldiers that held the land warrants of the government, would find them comparativey worthless. The settler would not buy railroad land or bounty land, when he could get the government land for nothing. Yet these lands must be forced upon the market and would fall into the hands of speculators and mortgagees. Thus the Homestead Bill would virtually defeat the purpose of all past and proposed grants of the public lands[3].

[1] *Congr. Globe,* 32nd Congr., 1st Sess., Appendix p. 437.

[2] "The only really formidable opposition made, and from which alone the bill is in any danger, comes so far as I am able to discover, from those gentlemen, who are desirous of obtaining from this Congress grants of the public lands to aid in building railroads". Cleveland of Connecticut in the House, April 1, 1852. *Congr. Globe,* 32nd Congr., 1st Sess., Appendix p. 574.

See also the insinuation thrown out by Chandler of Pennsylvania in his reply to Clarke's use of the Constitutional argument, May 6, 1852. Ibd. Part II, p. 1282. For obvious reasons, men whose partiality to the great railroad schemes was not above suspicion, would not dare to base their opposition upon this ground alone.

[3] Congr. Globe, 32nd Congr., 1st Sess., Appendix p. 737.

Yet, the opposition of the railroad interests, was a small matter compared with the far more serious antagonism roused by the jealousy of the older states. From Maine to Georgia, with few exceptions, the old states arrayed themselves against the Homestead Bill. Party lines were ignored. The sectional antagonism of north and south, that had recently burned so fiercely in the debates of the 31st Congress, was forgotten. Northern Whigs joined with southern Democrats in a common protest against what they called "the wild agrarianism of the west". The measure, they claimed, threatened the stability of all existing institutions, of all existing economic conditions. It would drain the old states of laborers. It would leave the land owners of New England without tenants. The farms of the old states would sink in the hopeless competition with these new and fertile fields of the new states. In his speech in the House, of April 20th Mr Allison of Pennsylvania represented the farmers and mechanics of his state as thus addressing the Congress of the United States: "By your policy you strike down our manufacturing interests; you exstinguish the fires of our furnaces; you stop the hammers of our forges; you turn thousands of our manufacturers and laborers out of employment. You render useless and valueless millions of capital, which under the encouragement of your laws, our people have invested in establishments for the manufacture of iron. You paralyse the arm of industry. You depreciate the value of real estate. You make a bid for our population, by holding out inducements for our productive laborers, to leave their old homes, under the seductive promise *of lands for nothing and railroards without taxes*, thereby decreasing our population; and consequently increasing the burdens of those that remain in the old states"[1].

[1] *Congr. Globe*, 32d Congr., 1st Sess., Appendix p. 434.

The southern politician, however, was the dominant influence in the 32nd Congress, and no argument that was based merely upon the rivalry of New England and Ohio, or that was inspired by the jealousy which New York might feel toward Illinois, could affect him very deeply. It mattered little to him, whether the fires went out in the Pennsylvania furnaces, or not; or whether the market value of the farms of Maine and New Hampshire went up, or down. Of far more importance was it to the chances of the Homestead Bill, that he saw in the measure a threatened violation of the rights of the old states in the public domain.

It might be a benefit to the eastern city to be relieved of its drifting and worthless waifage. But these formed only a small part of the landless poor. There was a far more numerous class of worthy people to be found in the cities and throughout the country districts of the old states, — the artisans, shoemakers, carpenters, mechanics and day laborers generally, whom the expence of removal to the west, would as effectually exclude from the benefits of the Homestead Act, as though they had been formally excluded by the provisions of the bill. It was simple mockery to offer these people a farm fifteen hundred miles away, which must not only be reached but be stocked with buildings, implements and cattle; and then be cultivated for years before it could be expected to yield any adequate returns. And even were it possible for the poor artisan or mechanic to transfer himself and his family half way across the continent and establish himself in the possession of this promised Canaan, it by no means followed that it was advisable for him to change all his habits of life and renounce his trade or his present vocation, for a new means of livlihood, of which he knew nothing, and in which success at best was remote and precarious. Yet the public lands belonged to these artisans and mechanics of the old states as

much as to the farmers of the west. The blood of their fathers had conquered them, or their own money had purchased them. The Homestead Law then was practically a proposition to give the public lands to the people of the western states, since by their occupation and by their contiguity, only they would be enabled to take possession of them[1] [2]. What right had Congress to

[1] The author is not responsible for the mutual contradictions of the various arguments here brought together. It is perhaps their best refutation.

[2] It was to emphasize this objection that Clingman of North Carolina, offered the amendment of May 6. "If we are to make a disposition of the public lands, I desire it to be an equitable one" .... "I do not regard those persons who have no property, as the most meritorious class of the community. I have a great many constituents, honest, industrious men, who will not find it practicable to leave their homes" .... "and emigrate to the west. Yet these men pay taxes and contribute to the support of the Government and are ready to fight for the Government". .... "Now what I desire is, that every citizen of the United States who is at the head of a family and every widow", ... "shall have a warrant for one hundred and sixty acres. If the person is poor and has no property to keep him at home, he may go off and occupy the land" .... "On the other hand, those people who have something to bind them at home, having the warrant, may sell it for whatever they can get; or, if they de not choose to sell it, they can keep it until their children grow up, and then let some one of their children go and occupy it". *Congr. Globe,* 32nd Congr., 1st Sess., Part II, p. 1281.

Clingman in a word proposed to divide up the public domain among the people of the United States, — a proposition which he would support no sooner than he would the Homestead Bill. He afterward confessed that were his amendment adopted he would not vote for the bill. His lack of sincerety in presenting the amendment was so evident, the proposition itself so manifestly absurd, that we may wonder that Congress should notice it at all. Yet it was apparently regarded as a valuable method of attack by the enemies of the bill. In each succeeding Congress it appears as regularly as the Homestead Bill. In 1858 Clingman has evidently brought it with him into the Senate. At that time, March 19, speaking to his amendment, he said; "the affect of this amendment will be to put all citizens of the United States on the same footing" .... "The citi-

rob nine tenth of the population of its birth-right and give it to the other tenth; or worse, what right had Congress to take the birth-right from the children and give it to the stranger, who knew little of American institutions and cared less?

In the light of this argument it was easy so see that the Homestead Bill was, after all, only another phase of a proposition that had long since been dismissed by Congress, — to give the public lands outright to the western states. It made little difference whether the land was given to the people in plots of one hundred and sixty acres each, or whether it was all given at once, in one vast domain, to be divided among them by their several legislatures. The result would be the same. The old states would loose their right to share in this heritage, and they were no more willing to renounce that right in 1852, than they were in 1832. 'Before they would make such an unjust and ignominious surrender, they would wade to their knees in blood'[1].

zens of the old states who do not think proper to go, may either realize the money for the warrant, or they may retain it" . . . . "An amendment like mine" . . . . "leaves all the states on an equal footing; it holds out no unjust inducement to our people to engage in a particular line of business which they may not have a fancy for, and it puts those who may choose to remain in their own States, and attend to their business there, upon an equal footing". The sweet Pharisaism of Clingman was characteristic of a certain class of politicians, who were only too prominent in the deliberations of "ante bellum days".

[1] The presentation of such direful alternatives was a popular method of argument in the buncombe days of the Republic. "I regard the bill, as in fact, a proposition to cede the lands to the states in which they lie, — a proposition upon which a distinguished senator of the west, [Mr Clay] when he examined it in 1832, remarked: "Can you imagine that the States of Ohio, Kentuckey, and Tennesee, would quietly renounce their rights in all the public lands west of them. No, Sir! No Sir! They would wade to their knees in blood, before they would make such an unjust and ignominious surrender". Speech of Bowie of Maryland in the House, April 26, 1852. *Congr. Globe,* 32nd Congr., 1st Sess., Appendix p. 480.

The southern statesmen cited[1] the several acts of cession by which the states that had had original

[1] This argument was advanced in the 32nd Congress first by Fuller of Maine. It was however both in its origin and its spirit distinctively a southern argument. It was used with effect by Alexander H. Stephens against the Graduation Bill of 1846. (Congr. Globe, Vol. 16, p. 1104). It was in keeping with the states right views of the south, and with the Constitutional argument, and was the favorite objection advanced by southern statesmen against the Homestead Bill.

On March 30, 1852. Fuller stated the argument thus: "Now sir, I come to the main subject of my argument, and I affirm these three positions as applicable to our public lands:

1. That the public lands shall be *disposed* of, for the use and common benefit of all the people of the United states as a whole.

2. That each state shall participate in that common benefit, according to its respective and proper proportion in the general charge and expenditure.

3. That they shall not be *disposed* of, for any other use or purpose whatsoever".

In support of these propositions Fuller appealed to the resolution of the old Congress passed Octobre 10, 1780, as the pledge of faith made by the Congress to the land states, to induce them to cede their lands to the Union, to be 'disposed of for the common benefit of the United States'. In response to this pledge:

"1. 1781, March 1. The State of New York, in the old Congress, by her Delegates, executed a deed of cession to the United States of her claim to all territory lying twenty miles west of the most westerly bent or inclination of Niagara river;" . . . . "*To be and inure for the use and benefit of such of the United States as shall become members of the Federal Alliance of the said States, and for no other use or purpose whatsoever*".

"2. 1784, March 1. Virginia made her deed of cession in the following words:

'That all the lands within the territory, as ceded to the United States, and not reserved for, nor appropriated to any of the above mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common *fund for the use and benefit of such of the United States as have become or shall become members of this confederation or Federal Alliance of said States, Virginia inclusive, according to their respective and usual proportions in the general charge and expenditure,*

claims to the territories east of the Mississippi, had committed them to Congress for a special purpose. By

and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever'."

"3. 1784, November 13. The Legislature of Massachusetts passed an act authorizing a cession to be made to the United States of all lands claimed by that state between the Hudson and the Mississippi rivers, for the purposes mentioned in the resolution of Congress adopted October 10, 1780; and in the deed are contained the words: 'To be disposed of for the common benefit of the United States'."

"4. 1786, September 14. Connecticut ceded to the United States all her interests to the lands one hundred and twenty miles west of the western line of Pennsylvania; and in the act of authorization occur these words: 'For the common use and benefit of said states, Connecticut inclusive'."

"5. 1787, August 9. The Delegates of South Carolina ceded to the United States her claim to the public domain, and that deed recites: "Whereas the Congress of the United States did, on the 6th day of September, recommend to the several states in the Union, having claims to western territory, to make a liberal cession to the United States of a portion of their respective claims, *for the common benefit of the Union; and whereas the state is willing to adopt every measure which can tend to promote the honor and dignity of the United States, and strengthen the Federal Union*" &c. . . . ."

"6. 1790, Febr. 25. North Carolina, by her two Senators, especially empowered, ceded her vacant land, after the adoption of the Constitution, and even after she had opened her land office and made considerable dispositions of her domain, to the United States, upon the express condition, "*that all the lands intended to be ceded by virtue of this act to the United States of America, and not appropriated as before mentioned shall be considered as a common fund, for the use and benefit of the United States of America, North Carolina inclusive, according to their respective, and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use whatever*'."

"7. 1802, April 24. Georgia ceded her public lands to the United States; and the third condition in the deed is in these words: '*That all the lands ceded by this agreement to the United States shall, after satisfying the above mentioned payment of* 1,250,000 *dollares to the state of Georgia, and the grants recognized by the preceding conditions, be considered a common fund for the use and benefit of*

the letter of these acts of cession, they sought to prove that the lands had never been given to Congress outright; but only as a trust, to be used to assist each state to meet its share "in the general charge and expenditure". To devote a single rood in any other way than that expressly stated in these deeds of cession, was to be false to this trust. The Constitution had undoubtedly given Congress a right to "dispose of the territory and other public property of the United States", but it had also expressly declared that "nothing in this Constitution, shall be so construed as to prejudice any claims of the United States or of any parti-

the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatsoever'."

"These are the deeds and these are the conditions upon which the United States hold in trust for the benefit of all its citizens, so much of its public domain. The United States have not in these lands an unconditional fee. It is a title *in trust*; and the purposes and objects of the trust are clearly and unmistakably set forth in the deeds. The proceeds of the lands are to be applied according to each state's *'respective and usual proportion in the general charge and expenditure'* . . . . . ."

"Now sir, this bill proposes to divert these lands from the *general charge and expenditure*, and to bestow them not upon all the people, but upon a *select, favored few.* Is this honestly executing the trust?" . . . . "I ask you if you can sit quietly by and witness so gross and palpable a violation of the objects and purposes for which these grants were made, — yea more — be instrumental in thus violating the sacred compact?" *Congr. Globe,* 32nd Congr., 1st Sess., Appendix p. 387.

On May 10th, Stephens repeated the argument. Woodward of South Carolina declared that "these public lands originally belonged to a portion of the states and not the whole". But they had been won by a war in which all the states had spent their blood and their treasure. "By considerations of justice, therefore this territory became the common fund of all the states to pay a common debt and provide for their common interest. But we propose now to reverse this policy, we propose to take this territory from the whole and give it to a part." Congr. Globe, 32nd Congr., 1st Sess., Part. II, pp. 1313 and 1314.

cular state[1]. What right then had Congress to violate the claims of the older states in these public lands? What right had Congress to pass a bill, which was, at best, only a "bold bid on the part of the government for population to leave the old states to settle in the new states"[2].

In vain the friends of the bill appealed to the acts of the early Congress to prove that the men who had drawn up these deeds of cession, placed no such restrictive interpretation upon them. In vain they claimed that even were such an interpretation just, the proposed bill was in entire keeping with both the letter and the spirit of it. The development of the new states was the development of the old states. Every measure that advanced the speedy settlement of the west, contributed just as markedly to the prosperity of all the other states. Every new farm established in the west, made one more important point of consumption for the manufactures of the east or the products of the south. While such an argument could not be without important influence upon the mind of the eastern capitalist, it could make little impression upon men as obtuse to the demands of modern progress, as the average southerner of 1852[3].

It was shown, moreover, that the mere letter of these several cessions was of little importance. At best the limits of these various claims, especially of those beyond the Ohio, were indefinite and conflicting. It would be impossible to establish them in any court of law. But granting all that the enemies of the

[1] The *Constitution of the United States.* Art. IV, Sec. 3.

[2] *Congr. Globe*, 32nd Congr. 1st Sess. Append. p. 736.

[3] For a description of the stupid conservatism that prevailed in the south, especially in South Carolina, prior to the Rebellion, see *Commercial Review*, vols VIII, p. 140, and XI, p. 137, cited in von Holst's *Const. Hist. U. S.* American Ed. vol. on years 1846—1850, p. 586, see also text of von Holst, *in loco.*

Homestead Bill could claim for these deeds of cession, they affected only a small part of the vast region that would ultimately be touched by the proposed homestead grants. They could not in any way affect the disposal of the territories beyond the Mississippi, to which the Homestead Law was far more important than to the older land states. They could have no effect upon the disposal of the thirty two million acres, that were embraced by the state of Florida, to say nothing of the lands in southern Mississippi and Alabama, that lay south of the old west Florida line [1].

To men, keen eyed in the search for arguments upon which to base their opposition to an obnoxious cause, it was not difficult to find an argument broad enough to cover the entire public domain. It might be granted that the giving of farms "without money and without price", would relieve actual distress on the frontier, or that it would be an act of mercy to settle the poor of the eastern cities upon western farms. But what right had Congress to use the peoples' money in such ways and for such a purpose. If a farm, why not a plough and a horse, or a negro slave [2], and five hundred dollars in addition to meet the cost of removal. If Congress had the power to give away the peoples' land, why not the peoples' money as well. But the Constitution had expressly defined the powers of Congress and in no place had it committed to Congress the right to use the peoples' money for the purposes

[1] The southern opponents of the bill were in no mood to yield this point, and with characteristic tenacity clung to an objection which only a lawyer accustomed to the quibbles of the court room could appreciate. As late as the debates of 1860, we still hear over and over again repeated the "deed in trust", — an argument which Stephens and Mason and Averet, to say nothing of Fowler and Sutherland, had fully exhausted long since.

See the later debates of the 35th and 36th Congresses.

[2] "Vote yourself a farm and a nigger", was a frequent taunt thrown at the homestead men in the later days of the Agitation.

of charity or to turn the government into an eleemosynary institution.

In reply the friends of the bill appealed to the numerous grants that Congress had already made for railroads, to the grants made to settlers in Oregon and in other parts of the west, in which the men that were now fighting the Homestead Bill, had discovered no exaggeration of the powers of Congress. It had been said that in these grants Congress was fully justified, because the extension of railroad lines was the extension of the means of facilitating military operations. It was now argued for the Homestead Law, that much more could the extension of a net work of thrifty farms accross the country, supporting a hardy and loyal population, be regarded as a measure of national defense. It was exactly in this class, that the Homestead Law proposed to build up, that the nation would find its most efficient support in time of need.

But in 1852, such arguments were not to be met by logic. At a time when the invasion of the Constitution and the threatened destruction of the rights of the states, had become the shibboleth of a great and dominant party, and when every such cry was sure to awaken echoes among panic stricken capitalists at the north, it was enough that the cry was raised. The south were still sore over the fancied affront of the Wilmot Proviso, and the supposed attempt of the north to deny them their rights in the acquisitions of the Mexican war. The political nerves were still unstrung. The southern dignity still wore an aggrieved air. The threat of the Nashville convention, had thoroughly cowed the timorous politician of the north [1]. The merest alusion to any intended invasion of the rights of sister states, was sure to bring forth from him a virtuous

[1] See von Holst, vol. on years 1850—1854, Chaps I, III, IV for description of the different currents of political interest that pervaded the 32nd Congress.

protest and increase the fervor of his opposition to the 'dangerous agrarianism of the west", or the demagogism of Hale and Johnson.

It was not then a foregone conclusion that the Homestead Bill would make a safe voyage through the 32nd Congress. In the House, where the large representation from the west was alert, united and earnest, after a hard fought battle, the bill was carried by a vote of 107 to 56[1]. On the following day, May 13th, it reached the Senate, and under the usual formalities, was referred to the Committee on public lands. In the Senate the western delegation was propotionally much smaller than in the House. Moreover from its composition, the Senate is always more conservative than the House and much less in touch with popular movements generally. Besides just at this time, it was largely under the control of that type of statesmanship that had given birth to the Fugitive Slave Law. The Senate therefore was in no mood to open new issues. Upon one pretext or another, the committee managed to keep back the bill until May 6th[2].

In the mean time the friends of the homestead measure were not inactive. The people of Ohio began to send in petitions to Congress from various parts of the state. The friends within the Senate were also active in their efforts to bring the bill from the committee before the Senate. On May 6th the committee reported adversely[3]; and although two of the committee presented a minority report favoring the bill in a modified form, to any one the least acquainted with the intricate

[1] *Congr. Globe*, 32nd Congr. 1st Sess. Part II, p. 1351. The vote 108 to 57, as given in the footing is not correct as may to seen by counting the ayes and nays.

[2] The members of the Committee seem to have been able to advance a satisfactory excuse for this delay. See statement of MrFelch, made July 8th. Ibid. p. 1681. But whether the excuse was valid or not, the delay killed the bill.

[3] *Congr. Globe*, 32nd Congr. 1st Sess. Part III p. 2100.

and elaborate machinery of legislation, it was evident that in the present mood of the Senate, the Homestead Law had no chance whatever. On May, 20th Mr Hale of new Hampshire, made an effort to bring the bill to a vote[1]. Hale himself acknowledged the hopelessness of the cause and admitted that his only object was to call forth an expression by the Senate. But this was by no means an easy task to perform. The Senate of the 32nd Congress was as chary of expressing its opinions in unqualified statement as the Oracle of Delphi; nor did its wary politicians propose to be forced into the presence of an uncomfortable dilemma, so near the eve of an election. Accordingly Hale only brought down upon himself the virtuous indignation of his collegues, who charged him openly with seeking to make political capital for himself and the Free Soil party, and triumphantly vindicated their own virtue and attested their purpose of dodging all unpleasant issues, by a vote of 18 to 36 on Hale's motion.

In the second session, inspite of the fact that the election had now been safely passed, the virtue of the Senate, still remained at high water mark. With the same beautiful scorn, the politicians resented the suggestion of expressing themselves upon a question in which the people were interested. On Feb. 21[2] after a debate of two hours, by a vote of 23 to 33, the Senate once more refused to consider the Homestead Bill. Another futile effort was made on Feb. 28th[3] to get the bill before the Senate. Again on March 2nd an effort was made to tack a homestead measure on the Civil and Diplomatic Bill, but the friends of the homestead were again defeated by a vote of 22 to 24. This was the last gasp of the Homestead Bill in the 32nd Congress. Other bills mostly of local interest

[1] Ibid. p. 2267.
[2] *Cong. Globe*, 32 Cong. 2nd Sess. p. 746.
[3] Ibd. p. 895.

merely, were crowded forward by their friends, and so, the session ended and the bill for which such a gallant fight had been made in the House in the first session, was left unconsidered upon the clerk's desk.

At first thought, it might seem that the discussion of the homestead measure, thus far had had no political bearing whatever[1]. Both sides had at different times made various attempts to use the party whip. But party principles were just then in an extremely chaotic condition. The distinguishing lines between Whig and Democrat had been entirely obscured by the vague generalities and the skilful hedging of party platforms. It was therefore utterly futile for the ardent supporters among the western Democracy to attempt to claim the Homestead Bill as a Democratic measure, or for the hostile elements of the south to attempt to load the bill with the sins of the Free Soil party. Far more wise was the solemn protest of Johnson, who as late as the 36th

[1] In the final vote of the House, of the whole number of Democratic votes cast, 67 were for the bill and 36 were against the bill. Of the whole number of Whig votes cast, 39 were in favor of the bill and 20 were in opposition. Although the Democrats could have carried the bill without the assistance of the 39 Whigs, yet by comparing the numbers of the two parties, it will be seen that relatively the Whig vote for the bill was slightly larger than the Democratic vote. (*Congr. Globe*, 32nd Congr. 1st Sess. Part. II, p. 1351.)

The responsibility for the treatment which the bill received from the Senate, may perhaps with some justice be laid at the feet of the Whig senators. In the vote of Feb. 21st only four Whigs favored the consideration of the bill, while 15 voted in opposition. But 15 Democrats also voted against consideration and only 18 in favor. (Ibd. 2nd Session, p. 895.) Of neither party could it be said that the leaders either favored the bill, or gave it their unqualified opposition. Even A. H. Stephens of Georgia could say that he would favor this bill as the less of two evils. And Clingman with a sweet humility worthy of Uriah Heep, assumed the position of a learner and gave the impression, that under certain circumstances even he might vote for the bill. (Ibd. 1st Sess. Part II p. 1205 and

Congress, continued to deprecate the action of those who sought to make political capital out of a measure that had no party affiliations whatever and that ought to stand solely upon its justice and its humanity. And yet Johnson's position was as far from the truth as the position of Henn or Mason. The measure had certain broad relations to the Democracy, in that it certainly involved the question of state-rights — though not exactly in the way in which Clingman or Mason had argued the question. The opponents of the bill were also right in yoking the measure with the aims of the Free Soil party, for it certainly had vital relations to the question of Northern supremacy — though there is no evidence that either the Free Soil leaders themselves or those who attacked them, as yet saw anything more than the most remote connection between free land and free negroes[1]. Johnson also was right, for

[1] The attack made upon Hale on May 20 1852, is the only instance, in which there is evidence that the Homestead Bill in the Senate was connected with the question of slavery extension. Hale, moreover, it is to be remembered had just returned to Congress, laden with the questionable honors of the Free Soil convention. He was the chosen candidate of a political faction particularly obnoxious to both the older parties. The convention had adopted the homestead measure in its party platform and had thus yoked it with unpopular views on the subject of slavery. It was natural therefore that the homestead principle should be made to share somewhat in the opprobrium which was heaped upon its unwelcome yoke fellows. But there is no evidence that the men who attacked Hale saw any special relation between the Homestead Law and the antislavery movement. They charged Hale and his friends with advocating the Homestead Law, not from any principle opposed to slavery, involved, but as a sop to the landless poor, who could in this way, be bribed by the promise of a free farm, to vote for an otherwise unpopular cause. (Congr. Globe, 32nd Congr. 1 Sess. Part III, p. 2267.) Moreover, neither does it appear that the supporters of the Free Soil party as yet saw very deeply into the real bearing of the homestead idea upon slavery. It was to them a relation of sentiment rather than of logic.

the Homestead Law certainly had no bearing upon the rivalry of Whig and Democrat, which had descended to a mere struggle for spoil. The full truth, however, which few of the politicians of the 32nd Congress seemed to grasp, was that the Homestead Agitation belonged not to the old order of things that was passing away, but to the new order which, as the everwhelming defeat of the Whig party in 1852 revealed, was at hand. True, the question was not large enough, ever to become the war cry of a great national party. The larger question of slavery, or rather the rivalry of the two types of civilization represented by north and south, was destined in years to come, more and more to obscure and overshadow all other questions, or sweep them along in its wake. Yet in the dissolution of old party ties, in the transition from the old to the new, here was a force, of secondary importance compared with the greater question, yet no less real, that in the nature of things was bound to have a potent influence in the reforming of political camps, and in marshaling the opposing sections of the country in new combinations.

By alienating the new states from the old, the Homestead Agitation threatened to add to the political complications already existing in consequence of the threatened schism between north and south, a schism also between east and west. It seemed that at last that exigency had arisen which the fathers of the Republic had predicted, and which had led them to dis-

Compare with speech of Garret Smith of Feb. 21st 1854. *Congr. Globe* 33nd Congr. 1st Sess. Appendix p. 207.

[2] "If we contrast the relative positions of the two great sections as to the public domain, we shall see how little there is in the idea that this bill gives an undue advantage to the north". Congr. Globe 32nd Congr. 1st Sess. Appendix p. 512. Speech of MrBrown of Mississippi who, with most of the representation from the south west, favored the Homestead Bill in the 32nd Congress.

courage the extension of the confederation of states beyond the Ohio. Here was a question, national in importance and vital to the interests of the west, that threatened to place the west and the east in violent and possibly irreconcilable antagonism.

The new states had a real grievance. Nominally they had been admitted to the Union upon the same terms and under the same conditions, under which the old colonial states had united in 1789. Theoretically they were the equals of the old states in all that constituted statehood. But, by what they regarded as unjust laws, they saw themselves practically, still kept in a kind of semi-minority or nonage. The government had taken advantage of their position and had imposed conditions upon them, such as the older states would not have endured for a moment. The government had endowed them with the title and dignity of states but had withheld a part of the rights of states. It had assigned them formal and definite boundaries, but within those boundaries it still retained the title to vast tracts of land, upon which the states might levy no tax, of which they could make no disposition and in which their people could secure no rights, save by the bounty of a power outside of, and superior to the state.

That this relation was abnormal and extra-constitutional, Congress itself had recognized in an attempt to fortify its position by special laws. After the admission of Arkansas and Michigan, it had compelled each new state to pass an "irrevocable ordinance, ceding or relinquishing any right to tax the public lands", as the one condition without which they could not receive the boon of statehood[1]. And now that

[1] "The United States as a mere question of power have said: 'If you do not pass an irrevocable ordinance, ceding or relinquishing any right to tax the public lands, you shall not come into this Union'" . . . . . "There are but two states in the Union, with

their rapid growth, the vast increase of territory beyond their western boundaries, had tought the new states their strength and importance, they began to question the right of Congress to compel them to sacrifice a part of their sovereign powers over their own territory, or to bind them under any such compact.

It was conceded that the government might perhaps hold these lands in order to indemnify it for the actual outlay of purchase, or of defense, or conquest. It was also granted that it was just for the government to defray the expense of the surveys and other operations necessary to the development of this new country, by the sale of public lands. But by the reports of the Land Office, it was shown that the public lands had long since paid for themselves dollar for dollar. The government therefore could no longer in justice withold these lands from the states within whose borders they lay. At least it could place them within easy reach of the people for actual and speedy settlement. To do less than this, to hold these lands as a means of income to the general government, or, which was the same thing, of profit to the several states, was practically to make the land of the new states pay tribute to the old, a relation, abhorrent to every principle upon which the federation of free and sovereign states had been founded.

Sectional animosity ran high. Western men resented the jealousy and suspicions of the east as unwise

whom a fair compact was made by the United States on that subject" . . . . . "These two states are Arkansas and Michigan. All the others have experienced the power of the government and their admission into the Union has been made on condition of acceding to this demand of exemption". Louis Cass in the Senate, July 12 1854. *Congr. Globe*, 33d Congr. 1st Sess. Part. III, p. 1706. See also p. 1773, where the position of Cass is called in question by Pierce of Maryland.

and unreasonable[1]. Congress had displayed so little wisdom in the disposition of lands already made, that western men began to impugn its integrity: as if it were not enough to be kept out of their heritage, they must see it squandered on speculators or wasted on useless railroads, or bestowed without a blush upon

[1] "The gentleman from Pennsylvania who last adressed the committee upon this bill, opposed it upon the ground that it would depopulate Pennsylvania . . . . . , as if there was in the growth of the agricultural west, an antagonism to the interests of his state" . . . . . "Strike down the agricultural interests of the great Mississippi valley, or greatly retard its development, and the manufactories of the east, for the need of a market, will go to decay; the cotton interest of the south, loosing its demand in the east for the raw material, would languish; commerce, loosing the transportation of the products of the great valley, would find the employment for its millions of tonnage ruinously diminished, it *would rot* at your wharves; paralysis would seize its *right arm*; its cities would decay; and grass would grow in the streets of our commercial emporiums; ruin, wide spread ruin, would overtake the whole circle of American industry".

"The gentleman from Maine called the attention of the committee to the fact, that the population of Maine had increased during the past ten years only sixteen per cent, while in the decade preceding the last, her increase was from thirty to forty per cent, — a result, he alleged, of western emigration" . . . . "If you ever intend to stop this downward career, you must not hold up your little flickering taper in competition with the glories of the western luminary; your agricultural interests have long since ceased to be a star of much magnitude in our constellation, the *center* and *support* of which, is the glorious *western orb*" . . . . . "one acre of our prairie soil, is worth ten of yours. You must give up your suicidal rivalries and jealousies of western agricultural interests, and turn your attention, ... to the development of your elements of manufacturing and commercial prosperity, and at the end of the next decade of our history, instead of mourning over your declining prosperity, yon will be able to challenge a comparison of your progress in wealth and population, with the most thriving states of the Union. *This*, sir, *is my remedy for your troubles*". Mallony of Illinois in the House, April 22, 1852. *Congr. Globe*, 32nd Congr., 1st Sess., Appendix pp. 490 and 491.

paper improvements. The western people were poor, yet the possibility of future wealth lay before them in these public lands. But now they saw this wealth, for which they had braved the hardships of the wilderness, rapidly vanishing under their very eyes, and they powerless to resist the spoiler. Bitter things were said, that sounded very much like the hot, disloyal words that, of late, had fallen so frequently from southern lips. Henn, a representation from Iowa, called upon the members of the western states to stand together "as one man" against the agressions of the old states. "Let us at this session of the American Congress, assert our rights. Let us as one man, say *No*, to every proposition brought forward by the east, until a returning sense of justice, shall give a little better demonstration of friendship to western interests"[1]. The relation of the government to the new states was compared to that of Great Britain to Ireland[2], 'selling and exhausting their resources to pay for its land, without contributing a dollar toward the support of the state government, or allowing the state authorities to tax its land', to meet the burdens of state or county.

These were not mere thoughtess words struck from the heat of debate, to be regretted when the immediate cause of provocation had passed away. They represented a deep and powerful tide of feeling throughout the entire west, both north and south, that was

[1] *Congr. Globe,* 32nd Congr., 1st Sess., Ap. p. 498.

[2] "I have a statement though not now by me, showing that under the land system as it now exists, selling as you have sold in Michigan, from the time my distinguished friend [Mr Cass] went there, until the present time, it will take fifty four years to extinguish within the borders of that state, the proprietorship of this government, which lords it over the people of the new states, some what after the manner of Great Britain over Ireland, selling and exhausting our resources to pay for its land" &c. *Congr. Globe,* 33nd Congr., 1st Sess., Part. III, p. 1687. Dodge of Iowa in the Senate, July 10th 1854.

gathering strength with every passing year, as the people of the new states beheld the cloud of hungry carrion, with each succeeding congress returning to the prey, always more hungry and ravenous, and instead of being satisfied by what they had already received, only encouraged to make more exorbitant and more unblushing demands upon the public bounty. And although, as is often the case, the suspicion of incompetency and corruption created an excitement and raised apprehensions, beyond what the actual state of things would justify; yet the effect of such agitation upon the public mind of the west, upon its loyalty to the Union, could not be such as to strengthen the loyal elements of the nation in the coming struggle with the south.

The Homestead Agitation then at the close of the 32nd Congress had a grave and serious import. At a time when the south had long since familiarized itself with the idea of secession, when over a large portion of the United States, the doctrine of state rights had become the accepted political creed of the people, and resistance to the fancied encroachment of the central government was preached as the most sacred duty of the patriot, — it was certainly a most serious matter to have such an agitation as that of the Homestead Law brought forward to increase the general dissatisfaction with the conditions under which the union of states existed. If it did not drive the west into open opposition, it would certainly greatly strengthen the influence of state-rights men and encourage the radical party of secession in the south.

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